THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16264 of 2007

07.8.2007

Between:
Challa Satya Narayana, S/o.Surya Rao

…Petitioner

And

Tadi Lakshmana Rao, S/o.Ramanna
And others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
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ORDER:

Petitioner herein successfully contested the election to the office of Sarpanch, Chittavaram village of Narsapuram Mandal in West Godavari District. Alleging that the petitioner incurred disqualification under Section 19(3) of Andhra Pradesh Panchayat Raj Act, 1996 (the Act, for brevity), by reason of having three children, first respondent approached the Election Tribunal-and-Principal Junior Civil Judge, Narsapur, under Section 233 of the Act. In the said election petition being EOP No.4 of 2004, petitioner filed an application purportedly under Rule 2 of Order XIV of Code of Civil Procedure, 1908 (CPC), to frame preliminary issue, whether Tribunal has jurisdiction to entertain the EOP No.4 of 2006 only on the ground of disqualification under Section 19(3) of the Act. By impugned order dated 20.6.2007, the Tribunal rejected the said application being I.A.No.187 of 2007 holding that application under Section 22(1) of the Act as well as Section 233 of the Act read with Rule 3 of Andhra Pradesh Panchayat Raj (Election Tribunals in respect of Gram Panchayats, Mandal Parishads and Zilla Parishads) Rules Rules, 1995 (the Rules, for brevity) is maintainable. Learned Counsel for the petitioner placed reliance on the decision of this Court rendered by my learned Brother Justice P.S.Narayana in **D.Sujatha v Chief Executive Officer, Zilla Parishad, Warangal**[1].

While passing the order, learned Tribunal observed that Order XIV Rule 2 of CPC would be applicable even to election matters. The said observation is directly contra to the Division Bench judgment of this Court in **Kummari Ramulu v Gangaram Penta Reddy**[2], wherein it was held that except the provisions of CPC referred under

Rule 7(2) of the Rules, all other provisions and powers of CPC cannot be exercised by the Tribunal. Therefore, the application filed by the petitioner is not maintainable. The impugned order passed by the Tribunal does not warrant interference.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

August 07, 2007
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[1] 2007(2) ALD 249

[2] 2004(3) ALT 788 (DB)